

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

PARLIN FUNDS LLC and THE PARLIN FAMILY
FOUNDATION,

Civil Action No. 1:13 cv 111

Plaintiffs,

-- v. --

**STIPULATION
AND ORDER**

CITIBANK N.A.,

Defendant.

WHEREAS:

1. Parlin Funds LLC and The Parlin Family Foundation (the "Plaintiffs") in this action are also the plaintiffs in an action pending in the United States District Court for the Southern District of New York, styled Parlin Funds LLC and The Parlin Family Foundation v. Tyrone Gilliams, TL Gilliams LLC, Everette Scott, Jr., Elam & Scott, LLP, The Scott Law Group, L.L.C., Vassilis Morfopoulos, Basic International Development Corporation, The H.E.A.R.T.T. Foundation, Brett Smith a/k/a "Brett Angelson", J.R. Delgado and Global Fortress, Inc. 11 Civ. 2534 (ALC) (MHD) (the "SDNY Action").

2. Plaintiffs, in connection with the SDNY Action, served a subpoena upon Citibank, N.A. ("Citibank") requiring the production of documents, to which Citibank objected on the ground that the documents demanded reflected trade secret or other proprietary or confidential information.

3. On or around February 24, 2012, Plaintiffs and Citibank entered into a Protective Order (the "Protective Order", a copy of which is annexed to this Stipulation and Order) which provided, inter alia, (i) that Citibank could designate certain documents as "Confidential" or

“Attorneys’ Eyes Only”; (ii) that Plaintiffs could employ certain procedures to challenge such designations; and (iii) that, unless otherwise agreed by Citibank or ordered by a Court ruling on a challenge to such designation, the disclosure and use of documents so designated would be subject to certain restrictions, including a requirement that submissions to Courts hearing “Related Actions”, as that term is defined in the Protective Order, would either (a) be filed with the Clerk of such Court under seal and not be available for inspection, except by the Court and counsel of record; or (b) be submitted in camera only to such Court, as such Court may direct. The Protective Order was signed and entered by the Hon. Michael H. Dolinger, the Magistrate Judge presiding over all pretrial aspects of the SDNY Action, and remains in force.

4. After entry of the Protective Order, Citibank produced documents pursuant to Plaintiffs’ subpoena, some of which it designated “Confidential” or “Attorneys’ Eyes Only”.

5. Plaintiffs and Citibank have previously stipulated that this action is a “Related Action” within the meaning of the Protective Order.

6. At the request of the parties, on March 12, 2013, the Court entered a Stipulation and Order providing, among other things, that Plaintiffs were authorized to file an amended complaint under seal for the purpose of protecting from disclosure any references made by Plaintiffs in their amended complaint to any document or information produced by Citibank and designated as “Confidential” or “Attorneys’ Eyes Only” pursuant to the Protective Order.

7. On March 25, 2013, Plaintiffs filed the Amended Complaint with the Clerk of the Court under seal.

8. Given the content of the Amended Complaint, Citibank’s responsive pleading may contain information relating to the documents or information Citibank designated as “Confidential” or “Attorneys’ Eyes Only” pursuant to the Protective Order.

9. The parties submit that a similar stipulation and order is needed to enable Citibank to file its response to the Amended Complaint under seal, in order to protect from disclosure any references made in the Amended Complaint or responsive pleading to any document or information produced by Citibank and designated as "Confidential" or "Attorneys' Eyes Only" pursuant to the Protective Order.

THEREFORE, by their undersigned counsel, Plaintiffs and Citibank stipulate and the Court hereby orders that Citibank may file any responsive pleading to the Amended Complaint with the Clerk of the Court under seal, without prejudice to the rights of Plaintiffs under the Protective Order subsequently to challenge Citibank's designation of any document or information as "Confidential" or "Attorneys' Eyes Only" and without prejudice to any rights the parties to this action, or any other interested person, may have to move at a later date to unseal such responsive pleading to the Amended Complaint or any other document that may subsequently be filed under seal in this action.

STIPULATED AND AGREED:

/s/ Pierce E. Cunningham
Pierce E. Cunningham
441 Vine Street, Suite 3500
Cincinnati, Ohio 45202
Telephone: (513) 361-0100
*Attorneys for Plaintiffs, Parlin Funds LLC
and The Parlin Family Foundation*

/s/ Douglas L. Lutz
Douglas L. Lutz
Paige L. Ellerman
FROST BROWN TODD LLC
3300 Great American Tower
301 East Fourth Street
Cincinnati, Ohio 45202
Telephone: (513) 651-6800
Attorneys for Citibank, N.A.

SO ORDERED:


United States Magistrate Judge